

# **OVERVIEW OF THE PRIVACY ACT OF 1974**

**(2015 Edition)**

## **TABLE OF CONTENTS**

<u>INTRODUCTION</u> .....	1
<u>LEGISLATIVE HISTORY</u> .....	1
<u>ROLE OF THE PRIVACY PROTECTION STUDY COMMISSION</u> .....	1
<u>ROLE OF THE OFFICE OF MANAGEMENT AND BUDGET</u> .....	2
<u>COMPUTER MATCHING</u> .....	3
<u>POLICY OBJECTIVES</u> .....	4
<u>DEFINITIONS</u> .....	4
A. Agency.....	4
B. Individual.....	15
C. Maintain.....	18
D. Record.....	19
E. System of Records .....	30
1. Disclosure: Subsection (b).....	36
2. Access and Amendment: Subsections (d)(1) and (d)(2) .....	48
3. Other Aspects.....	51
<u>CONDITIONS OF DISCLOSURE TO THIRD PARTIES</u> .....	54
A. The "No Disclosure Without Consent" Rule.....	54
B. Twelve Exceptions to the "No Disclosure Without Consent" Rule .....	68
1. 5 U.S.C. § 552a(b)(1) ("need to know" within agency).....	68
2. 5 U.S.C. § 552a(b)(2) (required FOIA disclosures).....	77
3. 5 U.S.C. § 552a(b)(3) (routine uses).....	83
4. 5 U.S.C. § 552a(b)(4) (Bureau of the Census).....	99
5. 5 U.S.C. § 552a(b)(5) (statistical research).....	99
6. 5 U.S.C. § 552a(b)(6) (National Archives).....	100
7. 5 U.S.C. § 552a(b)(7) (law enforcement request).....	100
8. 5 U.S.C. § 552a(b)(8) (health or safety of an individual) .....	101
9. 5 U.S.C. § 552a(b)(9) (Congress) .....	102
10. 5 U.S.C. § 552a(b)(10) (Government Accountability Office) ....	103
11. 5 U.S.C. § 552a(b)(11) (court order) .....	103
12. 5 U.S.C. § 552a(b)(12) (Debt Collection Act) .....	115
<u>ACCOUNTING OF CERTAIN DISCLOSURES</u> .....	116
<u>INDIVIDUAL'S RIGHT OF ACCESS</u> .....	118

<u>INDIVIDUAL'S RIGHT OF AMENDMENT .....</u>	129
<u>AGENCY REQUIREMENTS .....</u>	130
A. 5 U.S.C. § 552a(e)(1).....	130
B. 5 U.S.C. § 552a(e)(2).....	131
C. 5 U.S.C. § 552a(e)(3).....	135
D. 5 U.S.C. § 552a(e)(4).....	138
E. 5 U.S.C. § 552a(e)(5).....	140
F. 5 U.S.C. § 552a(e)(6).....	153
G. 5 U.S.C. § 552a(e)(7).....	154
H. 5 U.S.C. § 552a(e)(8).....	163
I. 5 U.S.C. § 552a(e)(9).....	163
J. 5 U.S.C. § 552a(e)(10).....	164
K. 5 U.S.C. § 552a(e)(11).....	165
<u>AGENCY RULES .....</u>	166
A. 5 U.S.C. § 552a(f)(1).....	166
B. 5 U.S.C. § 552a(f)(2).....	166
C. 5 U.S.C. § 552a(f)(3).....	166
D. 5 U.S.C. § 552a(f)(4).....	169
E. 5 U.S.C. § 552a(f)(5).....	170
<u>CIVIL REMEDIES .....</u>	170
A. Amendment Lawsuits under 5 U.S.C. § 552a(g)(1)(A) .....	178
1. Exhaustion of Administrative Remedies .....	178
2. Court Review .....	182
B. Access Lawsuits under 5 U.S.C. § 552a(g)(1)(B).....	191
C. Damages Lawsuits under 5 U.S.C. § 552a(g)(1)(C) .....	198
D. Damages Lawsuits under 5 U.S.C. § 552a(g)(1)(D).....	214
E. Principles Applicable to Damages Lawsuits .....	223
1. Intentional/Willful Standard .....	223
2. Actual Damages.....	239
F. Principles Applicable to All Privacy Act Civil Actions.....	247
1. Attorney Fees and Costs .....	247
2. Jurisdiction and Venue.....	252
3. Statute of Limitations .....	255
4. Jury Trial.....	276
<u>CRIMINAL PENALTIES .....</u>	277
<u>TEN EXEMPTIONS .....</u>	278
A. One Special Exemption — 5 U.S.C. § 552a(d)(5) .....	278
B. Two General Exemptions — 5 U.S.C. § 552a(j)(1) and (j)(2).....	280
C. Seven Specific Exemptions — 5 U.S.C. § 552a(k).....	293
1. 5 U.S.C. § 552a(k)(1) .....	294
2. 5 U.S.C. § 552a(k)(2) .....	294
3. 5 U.S.C. § 552a(k)(3) .....	302
4. 5 U.S.C. § 552a(k)(4) .....	302

5. 5 U.S.C. § 552a(k)(5) .....	303
6. 5 U.S.C. § 552a(k)(6) .....	306
7. 5 U.S.C. § 552a(k)(7) .....	307
<b><u>SOCIAL SECURITY NUMBER USAGE</u></b> .....	<b>307</b>
<b><u>GOVERNMENT CONTRACTORS</u></b> .....	<b>313</b>
<b><u>MAILING LISTS</u></b> .....	<b>314</b>
<b><u>MISCELLANEOUS PROVISIONS</u></b> .....	<b>314</b>
<b><u>TEXT OF THE PRIVACY ACT OF 1974</u></b> .....	<b>317</b>